

**CITY OF SANDY OAKS, TEXAS**

**ORDINANCE NO. 2022-196**

**AN ORDINANCE OF THE CITY OF SANDY OAKS, TEXAS AMENDING ORDINANCE NO. 2021-185 ESTABLISHING ANIMAL CONTROL REGULATIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION.**

**WHEREAS**, the City of Sandy Oaks is authorized by Local Government Code section 51.001 to adopt an ordinance that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City or to an office or department of the City; and

**WHEREAS**, the City Council has determined it should adopt this Ordinance to promote the public health, safety and welfare of the community; and

**WHEREAS**, Senate Bill 5 was passed by the 87<sup>th</sup> Texas Legislature and signed into law by the Governor of Texas replacing the previous unlawful restraint of a dog with a more humane standard of care for dogs as well as an enforcement mechanism for peace officers with an effective date of January 18, 2022; and

**WHEREAS**, the City Council adopted Ordinance No. 2021-185 providing regulations regarding animals and desires to amend Ordinance No. 2021-185 to include the standards in Senate Bill 5 and provide for other amendments to the City's animal control regulations;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:**

**SECTION 1. FINDINGS INCORPORATED.** The findings set forth above are found to be true and correct and incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2. ADOPTION OF ORDINANCE.** Pursuant to sections 51.001 and 51.012 of the Texas Local Government Code, the City Council of the City of Sandy Oaks hereby enacts and adopts this ordinance which defines animal nuisances, establishes regulations for the keeping of animals, and animal control and establishes the powers of the City of Sandy Oaks.

**SECTION 3. DEFINITIONS.** The following words and phrases for the purpose of this Ordinance shall have the following meanings unless the contexts clearly indicate otherwise:

*Abandon:* to fail to adequately provide an animal with one (1) or more of the necessities of life, including but not limited to, air, food, potable water, sanitary conditions, shelter, protection from the heat, cold, or other environmental conditions, or under other circumstances that may cause bodily injury, serious bodily injury, or death of the animal, for twenty-four (24) or more hours, or to leave an animal in the care, custody, or control of another person without his or her consent.

*Adequate Fencing:* a fence which contains any animal upon the owner's or occupier's property and prevents same from escaping.

*Adequate shelter* means a sturdy structure: (A) that provides the dog protection from inclement weather; and (B) with dimensions that allow the dog while in the shelter to stand erect, sit, turn around, and lie down in a normal position.

*Animal:* unless otherwise stated includes any living creature, including but not limited to dogs, cats, cows, horses, birds, fish, mammals, reptiles, insects, fowl, and livestock, but specifically excluding human beings.

*Animal Control Officer:* the person or persons designated by the City Council or the Enforcing Agency to represent and act for the City in the impoundment of animals, controlling of stray animals and as otherwise required in this Ordinance.

*At large:* an animal that is not confined to the premises of its owner by a containment device of sufficient strength and/or height to prevent an animal from escaping therefrom inside the house or other enclosure or secured on said premises by a leash of sufficient strength to prevent the animal from escaping from said premises and so arranged that the animal will remain upon said premises when the leash is stretched to full length in any direction. An animal shall not be considered at large when held and controlled by some person by means of a leash or chain of proper strength and length to control the action of the animal or while confined within a vehicle.

*Cat:* all members of the feline family of either sex, including one spayed or neutered, but not including wild cats that are Dangerous Wild Animals.

*City:* the City of Sandy Oaks, Texas, a Type A General Law municipality incorporated and operating in Bexar County under the laws of the State of Texas.

*City Administrator:* the person appointed as City Administrator or Interim City Administrator of the City, or his or her designee, or at a time or times the position of City Administrator or Interim City Administrator is vacant or unfilled, the Mayor, or his or her designee.

*City Council:* the governing body of the City.

*Collar:* any neck restraint constructed of nylon leather or similar material specifically designed to be used for an animal for the purpose of placing rabies and identification tags.

*Cruel or cruelty:* includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, water, care, or shelter, cruelly confined, or caused to fight with another animal.

*Custodian:* person or agency which feeds, shelters, harbors, owns, has possession or control of, or has the responsibility to control an animal.

*Dangerous dog* means a dog that:

- (a) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
- (b) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

*Dangerous Wild Animal:* Regardless of an individual animal's age or health:

- (a) An animal of a species defined as a dangerous wild animal: in Subchapter E (Dangerous Wild Animals), Chapter 822 (Regulations of Animals), of the Texas Health and Safety Code; or
- (b) An animal of any other species of wild or feral mammals or reptile that by its nature or breeding is capable of inflicting serious bodily injury to a human.

*Dog:* all members of the canine family of either sex, including one spayed or neutered, except that a dog used for law enforcement by a governmental entity is an instrumentality of the law enforcement officer and is subject only to the rabies provisions of this chapter or as mandated by state law.

*Enforcing Agency:* the City of Sandy Oaks or its designee retained by or contracted with the City to enforce any provision of this Ordinance.

*Exotic animal:* any animal not commonly domesticated by man. Small caged animals that are typically sold through pet stores, to include rabbits, indoor caged birds, reptiles, amphibians and small mammals (hamsters, guinea pigs, rats, mice and gerbils, fish typically kept in an aquarium or ornamental ponds and ferrets are not exotic animals.

*Fowl:* chickens, turkeys, pheasant, peacocks, quail, geese, ducks, or similar feathered animals regardless of age, sex or breed.

*Harness:* a set of straps constructed of nylon, leather, or similar material, specifically designed to restrain or control a dog.

*Holding Facility:* a place identified by the Enforcing Agency for the purpose holding and legally disposing of stray, unrestrained, homeless, abandoned, or unwanted animals.

*Inclement weather:* includes rain, hail, sleet, snow, high winds, extreme low temperatures, or extreme high temperatures.

*Livestock:* domesticated horses, cattle, goats, sheep or swine or any ruminant that which standing measures less than thirty inches (30") in height at the top of the shoulder regardless of age, sex or breed; or any other domesticated animals that when standing measures less than thirty inches (30") in height at the top of the shoulder other than a dog.

*Local Rabies Control Authority:* the officer designated by the City Council to enforce the ordinances or rules of the City related to rabies control.

*Microchip*: a permanent form of identification about the size of a grain of rice injected beneath the surface of an animal's skin usually between the shoulder blades and can be read by a microchip reader that will pick up the chip's unique ID code to identify the animal.

*Nuisance*: Whatever is dangerous to human life or health, whatever renders the ground, the water, the air or food a hazard or injury to human life or health or that is or threatens to become detrimental to the public health or contributes to urban blight or decay.

*Officer*: An employee of the Enforcing Agency assigned to the animal control provisions of this Ordinance or other City ordinances, the Chief of Police, a Code Enforcement Officer of the City, a Code Enforcement Official of the City, or a commissioned peace officer.

*Owner*: Any person who has care, custody, and control of any animal, harbors or keeps any animal in his/her possession, or who permits any animal to remain on or about his/her premises.

*Possession*: Actual care, custody, control, or management of a certain animal.

*Premises*: (1) A parcel of land of one (1) or more contiguous lots owned, leased, or controlled by one (1) or more persons, or (2) A building or part of a building.

*Prohibited animals*: any animal not normally considered domesticated and capable of or inclined to do serious bodily harm to humans or other animals or fowl as determined by the City. These animals include but are not limited to any venomous lizard or snake, bat, raccoon, skunk, fox, bear, elephant, kangaroo, non-human primate, including monkey and chimpanzee, antelope, deer, wolf, or wolf hybrid, lion, tiger, ocelot, bobcat, or any other large cat, alligator, crocodile, feral swine, and their allies.

*Properly fitted*: means, with respect to a collar or harness, a collar or harness that: (A) is appropriately sized for the dog based on the dog's measurements and body weight; (B) does not choke the dog or impede the dog's normal breathing or swallowing; and (C) does not cause pain or injury to the dog.

*Quarantine facility*. A facility approved by the Texas Department of Health for the strict confinement of an animal for rabies observation, as defined in Health and Safety Code section 826.051, as amended.

*Rehoming fee* means a fee charged by an organization or person to adopt, readopt, or place an animal in a home or another home. This includes a donation for an animal.

*Restraint*: A chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

*Secure* means to take steps that a reasonable person would take to ensure a dog remains on the owner's property, including confining the dog in an enclosure that is capable of preventing the escape or release of the dog.

*Secure enclosure* means a fenced area or structure that is:

- (a) locked;
- (b) capable of preventing the entry of the general public, including children;
- (c) capable of preventing the escape or release of a dog;
- (d) clearly marked as containing a dangerous dog; and

- (e) in conformance with the requirements for enclosures established by the enforcing agency.

*Serious bodily injury:* means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

*Stray Animal:* an animal which is not on a leash or enclosed in a fenced yard.

*Unprovoked:* means the animal was not hit, kicked, pulled, struck, pinched, poked, prodded, shocked, or squeezed by a person with an object or part of the person's body, or otherwise teased or tormented in any manner.

*Vaccinated:* an animal that is considered to have a current anti-rabies vaccination according to the Texas State Rabies Control Act, as amended, and the minimum standards established by the appropriate state agency or rule-making board.

*Vaccination:* an injection of any vaccine for rabies approved by the State and administered or supervised by a licensed veterinarian.

*Veterinarian:* a doctor of veterinary medicine who holds a valid license to practice his/her profession in one or more of the fifty United States.

*Veterinary Clinic:* a facility or hospital for diagnosis and treatment of animals.

*Zoonotic disease:* a disease that can be passed between animals and humans.

#### **SECTION 4. ANIMAL NUISANCE REGULATIONS.**

A. The following shall be considered a public nuisance and shall be unlawful:

1. The keeping of an animal which causes frequent or long continued noise, barking, howling, meowing, or whining in such a manner, with such intensity, or with such continued duration, so as to annoy, distress or disturb the quiet comfort of repose of persons of ordinary sensibilities within the vicinity of hearing thereof. It shall create a presumption that a person has knowledge that the animal under his or her control is making or creating an unreasonable disturbance if such person shall have been notified by the animal control officer or any peace officer of such disturbance and a failed or refused to correct such disturbance or prevent its recurrence;
2. The keeping of any dog or other animal kept, maintained or harbored within the City corporate limits which has fierce, dangerous or vicious propensities or which has bitten, scratched or otherwise attacked any person or other animal;
3. The keeping of more than seven (7), in any combination, of dogs, cats and ferrets above the age of four (4) months in any of the residential areas within the City limits is prohibited, except the keeping, caretaking or maintaining of a colony or colonies of feral cats

registered with the San Antonio Feral Cat Coalition or other organization operating a "Trap-Neuter-Return/Release" program is permitted;

4. The keeping of any animal defined as livestock under this Ordinance in any of the residential areas within the City limits;
  5. The keeping of any animal defined as an exotic animal, dangerous wild animal or prohibited animal under this Ordinance within the City limits;
  6. The keeping of more than ten (10), in any combination, of fowl other than a rooster and small caged animals above the age of four (4) months in any residential area within the City limits;
  7. The keeping of more than ten (10), in any combination, of dogs, cats, ferrets and livestock in any areas that is not a residential area when allowed by this Ordinance, provided however, livestock of any size may be kept in such an area that exceeds ten (10) acres in size;
  8. The keeping of a rooster in the City limits;
  9. The keeping of any animal, animal pen, cage, shelter or yard in such a manner as to endanger the public health or as to annoy neighbors of ordinary sensibilities by the accumulation of feces and putrid materials which cause foul and offensive odors or the creation of a condition that is a breeding place for fleas or other vector;
  10. The keeping of any animal which habitually deposits body wastes upon or destroys by chewing, scratching, digging or otherwise, property other than that of the owner of such animal;
  11. The keeping of animals for which rabies vaccine is required and which remain unvaccinated against rabies;
  12. The improper disposal of animal waste or feces in such manner as to endanger the public health, cause the accumulation of foul and offensive odors, or to annoy neighbors of ordinary sensibilities; or
  13. The keeping of bees in such a manner as to deny the lawful use of adjacent property or endanger personal health and welfare.
- B. Keeping of animals in the City and restraint.
1. The owner or any person having control over any animal or fowl shall keep the same confined within a building or adequate fencing at all times;
  2. It shall be unlawful to permit any animal to:
    - a. Roam, wander upon, or remain upon any public property or street while unattended by the owner or person having control, or

- b. Go upon or remain upon any private property without the consent of the owner of the property.
  3. When a dog is being walked or with its owner off its property, the dog must be on a leash and accompanied by the owner at all times. If the dog is without a leash or not accompanied by the owner, it is considered unrestrained and is in violation of this Ordinance.
  4. A cat must remain within the boundaries of its owner's property.
  5. Any owner, custodian, or person having control of any animal or fowl shall keep all hay, grain and feed used in connection with the maintenance thereof enclosed in such manner that the same is not accessible to rats, flies, mosquitoes, or other rodents or insects.
- C. Keeping of Livestock Within the City.
1. Where such livestock is permitted, it shall be unlawful for any person to keep on his/her premises under the person's control any livestock without providing adequate fencing or barriers that will prevent such livestock from leaving the property of the person having control of such animal.
  2. It shall be unlawful for any person to ride or allow any type of livestock upon any public-school grounds, public park property, or municipal grounds, within the City except those designated as bridle paths or other designated riding or exhibiting areas for livestock. On streets horses shall be ridden as close as possible to the curb and in no event shall horses be allowed on state highways. It shall be unlawful for any person to ride or allow any type of livestock upon the property of another within the City except with the express consent of the owner or person in charge of such property obtained prior thereto. No person shall ride any type of livestock on any public right-of-way before sunrise or after sunset.

## **SECTION 5. VACCINATION, IDENTIFICATION AND SPAY/NEUTER REQUIREMENTS.**

### **A. Vaccination Required.**

1. Dogs and cats shall be vaccinated as required by this Ordinance.
2. No person shall have within the City any dog or cat four (4) months of age or older for more than thirty (30) days unless such dog or cat is currently vaccinated against rabies.
3. A dog or cat may be administered a vaccination that will be current for a period of one (1) year or a period as determined to be appropriate by a veterinarian and all vaccinations shall be administered according to the label recommendation of the United States Department of Agriculture approved vaccine. The dog or cat must be revaccinated before the expiration of the first and each subsequent current vaccination period.

4. An owner shall ensure his/her dog(s) and cat(s) is vaccinated by a veterinarian and maintain a vaccination certificate. Such vaccination certificate shall reflect the name of the owner, his/her address, a description of the dog or cat, the date of the vaccination, the number of the vaccination tag and the kind of vaccination used.
5. It shall be unlawful for any person within the city to own, keep, possess, harbor or allow to remain upon the premises under his control any dog or cat without having proof that such animal is vaccinated against rabies as required by this Section.
6. This Section shall not apply to fish, reptiles, birds, hamsters, guinea pigs, rabbits, rats, mice, gerbils or any animal other than a dog or cat which, in the opinion of the licensed veterinarian, would be endangered by a rabies vaccination.

B. Collar and tag required for dogs and cats.

1. Dogs shall wear rabies tags as required by this Ordinance.
2. To aid in the identification of the pet owner and return of the animal in the event of impoundment, the owner of a dog shall see that a dog wears at all times a collar or harness to which the current rabies tag shall be attached, except as provided in paragraphs 3 or 4 of this subsection. It is unlawful for any person to remove the tag from the collar or harness without the owner's consent.
3. Dogs confined within a residence need not wear their collar or harness nor the rabies tag while within the residence. However, in no case shall a dog or cat be allowed to exit the interior of the residence without wearing its collar or harness with the current rabies tag attached.
4. Dogs or cats competing at approved dog or cat club shows or trials or while being transported to and from such events need not wear their collar or harness or their registration.
5. If such rabies tag is lost or destroyed, the owner is required to obtain a new tag from the veterinarian or veterinary clinic that administered the rabies vaccine.

C. Microchipping of Dogs and Cats Required.

1. The owner of any dog four (4) months of age or older or a cat two (2) pounds and two (2) months of age or older must have the dog or cat implanted with a registered microchip. At a minimum, a microchip must provide the name, address and telephone number of the owner. A dog or cat is exempt from this requirement if the dog or cat is determined to be medically unsuitable for microchipping by a licensed veterinarian in writing.
2. The owner of a dog or cat shall maintain current registration with a microchip registration company and the City of Sandy Oaks.
3. If there is a change in contact information of an owner of a registered microchipped dog or cat, the owner shall update contact information, including new address or



telephone number, with the microchip registration company and the City of Sandy Oaks within thirty (30) days of the date of the change in contact information.

4. If there is a change in ownership of a registered dog or cat, the initial owner shall be responsible for ensuring that the microchip is no longer registered in the initial owner's name within thirty (30) days of the date of change in ownership. The new owner shall be responsible for re-registering the microchip with the microchip registration company and the City to include any new address and telephone number and have the registration information transferred to the new owner's or keeper's name within thirty (30) days after the change in ownership.

D. Spay/Neuter Requirements for dogs and cat

1. All dogs and cats kept in the City limits must be spayed/neutered. The owner of such animal must retain documentation of the spay/neuter of the animal.
2. Violation of this subsection may result in the impoundment of the dog or cat as provided in this Ordinance.
3. Dogs and cats exempt from this subsection include:
  - i. those under 6 months of age;
  - ii. those where a licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile;
  - iii. service dogs helping disabled persons or assisting law enforcement; or
  - iv. purebred dogs or cats that compete in conformation, obedience, and agility events and have the following:
    1. The animal's microchip number;
    2. A copy of the animal's up-to-date health statement;
    3. Appropriate documents to establish exemption or signed affidavit attesting to participation in competition.

**SECTION 6. DESIGNATION OF LOCAL RABIES CONTROL AUTHORITY.** The Animal Control Officer/Public Works Director is hereby designated as the Local Rabies Control Authority with the authority to enforce the provisions of this Ordinance or other City ordinance or rule related to animal control.

**SECTION 7. STANDARDS OF CARE AND CONDUCT.**

- A. Every person owning or having charge, care, custody or control of any animal shall:

1. Keep such animal exclusively upon his or her own premises by means of physical restraint or adequate fencing, provided however, that such animal may be off such premises if it is under direct physical control of a competent person as provided by Section 4.
2. Not walk such animal on public property or upon the private property of another without carrying at all times, a suitable bag, container or other suitable instrument for the removal and disposal of animal feces. Disabled persons using trained guide or personal assistance dogs are exempt from this requirement. This requirement does not apply to any peace officer while using an animal in the discharge of law enforcement activities.
3. Not permit such animal to defecate upon any property unless the person immediately removes the feces and properly disposes of it, provided however, that nothing contained in this Ordinance authorizes such person to enter upon the private property of another without permission.
4. Provide proper care for the animal, as follows:
  - a. Keep the animal in a clean, sanitary, and healthy condition.
  - b. Provide for the animal:
    - i. Regular and adequate amounts of nutritional food that is appropriate for the species and that maintains the animal in good health;
    - ii. A constant and adequate supply of clean, fresh, potable water and keeps the animal hydrated for environmental conditions; and
    - iii. Care and medical treatment for injuries, parasites, and disease that is sufficient to maintain the animal in good health and minimize suffering.
5. Provide proper shelter for the animal as follows:
  - a. Provide the animal with shelter that:
    - i. Is large enough for the animal to enter, stand, turn around, and lie down in a natural manner;
    - ii. Keeps the animal dry;
    - iii. Provides the animal with natural or artificial shade from direct sunlight;
    - iv. Protects the animal from excessive heat and cold and other adverse weather condition; and
    - v. Is adequately ventilated.
  - b. Provide the animal with exercise space that is large enough to prevent injury and keep the animal in good condition.

- c. The custodian of an animal may not confine the animal to the extent that it is forced to stand, sit or lie in its own excretion.
  - d. It is an affirmative defense to prosecution under this subsection if the animal's treatment was directed by a licensed veterinarian.
- B. Any outdoor pens, cages or shelters constructed to confine or hold any type of animal must be located in an area that is surrounded by a fence or rock wall, and any pen cage or shelter constructed to confine or hold any type of animal other than a dog or cat must be situated within that area such that the sides or walls of the pens, cages or shelter are a minimum of five (5) feet from any fence or rock wall that is immediately adjacent to a developed or occupied property.
- C. An owner or custodian shall confine within a building or enclosure every fierce, dangerous or vicious animal in accordance with all applicable Texas statues. Confinement shall be in such a manner that the animal cannot come in contact with any person or animal except for supervised breeding.
- D. The animal control officer or other designee of the Enforcing Agency may cause the muzzling, impoundment, secure confinement, quarantine, removal from the City, or humane destruction of any animal on an emergency basis for any reason of public health and safety, including due to:
  - 1. The unprovoked attack by an animal upon any person or animal; or
  - 2. Whenever any lawful patron or visitor of a business is jeopardized by a guard dog, which is not securely confined during hours the business is open to the public.
- E. Any such impoundment, confinement and quarantine shall be conducted in accordance with the regulations established by the Enforcing Agency, to include by not be limited to the time and manner of confinement, and the humane destruction of the animal or the return of the animal to its owner.

## **SECTION 8. PROHIBITED ACTIONS.**

- A. It shall be unlawful for any person:
  - 1. To sell, trade, barter, lease, rent, give away, or display for a commercial purpose any animals on any roadside, public right-of-way, commercial parking lot, or at a flea market or festival;
  - 2. To sell, trade, barter, lease, rent, give away, or display baby fowl or ducklings as pets or novelties, whether dyed or not dyed, colored, or otherwise artificially treated, provided however, this Section shall not be construed to prohibit the display or sale of natural chicks or ducklings in proper breeding facilities for hatcheries or stores engaged in the business of selling the same to be raised for legitimate commercial purposes.

3. To provide grooming, kenneling or boarding of animals for a fee, or to breed and sell more than one (1) litter from one or more animals on the same property in one calendar year, without complying with all applicable requirements of the ordinances of the City to include ordinances regulating the permitted uses in the various zoning districts and ordinances requiring the registration of businesses and the licensing of home occupations. For the purposes of this Ordinance, a rehoming fee will be considered a sale.
  4. To abandon any animal within the corporate limits of the City.
  5. To confine or allow to be confined any animal in a motor vehicle or trailer under such conditions or for such a period of time as may endanger the health or wellbeing of the animal due to heat, lack of food or water or any other circumstance which causes suffering disability or death of the animal.
- B. Poisoning of animals prohibited.
1. No person shall in any place accessible to birds, dogs, cats or other animals with the intent to kill or harm such animals, place any substance which has in any manner been treated with any poisonous substance.
  2. The above subsection does not apply to the elimination of rodents such as mice or rats provided that a person is required to not allow the placement of harmful or poisonous substances in places where domestic animals might ingest the harmful or poisonous substance even if the purpose of the substance is to eliminate rodents.
- C. Fight upon exhibition. No person shall maintain any place where fowl or any animals are suffered to fight upon exhibition or for sport upon wager.
- D. Unlawful restraint of a dog.
1. An owner may not leave a dog outside and unattended by use of a restraint unless the owner provides the dog access to:
    - a. adequate shelter;
    - b. an area that allows the dog to avoid standing water and exposure to excessive animal waste;
    - c. shade from direct sunlight; and
    - d. potable water.
  2. An owner may not restrain a dog outside and unattended by use of a restraint that:
    - a. is a chain;
    - b. has weights attached;

- c. is attached to a collar or harness not properly fitted.
- d. uses a collar that is a pinch-type, prong-type or choke-type;
- e. is a length shorter than the greater of (i) five (5) times the length of the dog as measured from the tip of the dog's nose to the base of the dog's tail, or (ii) ten (10) feet;
- f. is in an unsafe condition; or
- g. causes injury to the dog.

3. Exceptions.

- a. This subsection does not apply to:
  - i. The use of a restraint on a dog while the owner and dog engage in, or actively train for, an activity conducted under a valid license issued by the state provided the activity is associated with the use or presence of a dog;
  - ii. the use of a restraint on a dog in a public camping or recreational area in compliance with the requirements of the public camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
  - iii. the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of shepherding or herding cattle or livestock;
  - iv. the use of a restraint on a dog while the owner and dog engage in conduct directly related to the business of cultivating agricultural products;
  - v. a dog left unattended in an open-air truck bed only for the time reasonably necessary for the owner to complete a temporary task that requires the dog to be left unattended in the truck bed;
  - vi. a dog taken by the owner, or another person with the owner's permission, from the owner's residence or property and restrained by the owner or the person for not longer than the time necessary for the owner to engage in an activity that requires the dog to be temporarily restrained; or
  - vii. a dog restrained while the owner and dog are engaged in, or actively training for, hunting or field trialing.

- b. Subsection D(2) does not apply to a restraint attached to a trolley system that allows a dog to move along a running line for a distance equal to or greater than the lengths specified under that subsection.
  - c. This subsection does not prohibit a person from walking a dog with a handheld leash.
4. Penalty.
- a. A person commits an offense if the person knowingly violates this Section. The restraint of each dog that is in violation is a separate offense.
  - b. A peace officer or animal control officer who has probable cause to believe that an owner is violating this Section shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date on which and the time at which the statement is provided to the owner.
  - c. An offense under this Section is a Class C misdemeanor, except that the offense is a Class B misdemeanor if the person has previously been convicted under this Section.
  - d. If conduct constituting an offense under this Section also constitutes an offense under any other law, the actor may be prosecuted under this Section, the other law, or both.

## **SECTION 9. CAPTURE AND IMPOUNDING OF ANIMALS.**

- A. The animal control officer shall take into custody the following:
- 1. Any domestic animal found at large in the City and shall impound the animal in the holding facility as designated by the City or pursuant to any interlocal agreement between the City and other governmental agency providing animal control services pursuant to this Ordinance.
  - 2. Any dog or other animal which has fierce, dangerous or vicious propensities or which has bitten, scratched or otherwise attacked any person and which is at large and is unable to be caught and impounded and which is displaying vicious and dangerous propensities may be destroyed by the Enforcing Agency without notice to the owner.
  - 3. Any dog or other animals infected with rabies and displaying vicious propensities shall be destroyed by the Enforcing Agency without notice to the owner.
  - 4. Any dog or other animal which is found to be injured to the extent that it is past recovery, in the opinion of the veterinarian employed by the city or a euthanasia certified individual retained by the City, may be destroyed by said veterinarian or a euthanasia certified individual retained by the City, if the owner thereof is unable to be determined, or if the owner cannot be found after reasonable inquiry in the neighborhood where the dog or other animal was located.

5. Such impounded animal shall be held for a period of three (3) business days and at the end of that time if the animal has not been redeemed and the proper fee paid as described herein, the animal shall become property of the City, all ownership rights for the animal shall transfer to the City, and the animal may be adopted or disposed of in a humane and proper method, taking into consideration factors that may include, but not limited to the animal's behavior, aggressive tendencies, feral characteristics, health and housing space availability, within the sole discretion of the Animal Control Officer. An animal shall become property of the City, all ownership rights of the animal shall transfer to the City and the Enforcing Agency may destroy or dispose of the animal in a humane or proper method before the expiration of the three- (3) business day holding period if such circumstances or condition of the animal require such destruction or disposal to preserve the public health and safety of the community.
6. The owner of an animal is liable for the fee established by the Fee Schedule attached hereto as Exhibit "A" for the return/redemption of the animal from the City. However, an animal that is captured by the City three (3) or more times is surrendered to the City and ineligible for return to or redemption by the owner.
7. The City or Enforcing Agency may vaccinate, spay or neuter, or microchip an animal that is not vaccinated, spayed or neutered, or microchipped in compliance with this Ordinance. The owner of an animal that is not in compliance with vaccinations, spay or neutering, or microchipping as provided herein must pay all expenses incurred by the City or the Enforcing Agency for the vaccination, spay or neutering, or microchipping of such animal and any other fee imposed by the Fee Schedule attached hereto as Exhibit "A" before the animal is released to its owner.

## **SECTION 10. DOGS THAT ATTACK OR ARE DANGERS TO PERSONS.**

### **A. Seizure of a Dog Causing Death of or Serious Bodily Injury to a Person.**

1. The municipal court shall order the animal control officer or his designee to seize a dog and shall issue a warrant authorizing the seizure:
  - a. on the sworn complaint of any person, including the city attorney/prosecutor or a peace officer, that the dog has caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person; and
  - b. on a showing of probable cause to believe that the dog caused the death of or serious bodily injury to the person as stated in the complaint.
2. The animal control officer shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

### **B. Hearing.**

1. The court shall set a time for a hearing to determine whether the dog caused the death of or serious bodily injury to a person by attacking, biting, or mauling the person. The

hearing must be held not later than the 10th day after the date on which the warrant is issued.

2. The court shall give written notice of the time and place of the hearing to:
  - a. the owner of the dog or the person from whom the dog was seized; and
  - b. the person who made the complaint.
3. Any interested party, including the county attorney or city attorney, is entitled to present evidence at the hearing.
4. The court shall order the dog destroyed if the court finds that the dog caused the death of a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:
  - a. its owner;
  - b. the person from whom the dog was seized; or
  - c. any other person authorized to take possession of the dog.
5. The court may order the dog destroyed if the court finds that the dog caused serious bodily injury to a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:
  - a. its owner;
  - b. the person from whom the dog was seized; or
  - c. any other person authorized to take possession of the dog.
6. The court may not order the dog destroyed if the court finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:
  - a. the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:
    - i. the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
    - ii. the injured person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
  - b. the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was



being kept, and the injured person was at least eight years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;

- c. the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
- d. the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
- e. the injured person was younger than eight years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight years of age from entering.

C. Destruction of Dog. The destruction of a dog under this Section must be performed by:

1. a licensed veterinarian;
2. personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals; or
3. personnel of a governmental agency responsible for animal control who are trained in the humane destruction of animals.

D. Attack by Dog.

1. A person commits an offense if the person is the owner of a dog and the person:
  - a. with criminal negligence, as defined by Section [6.03](#), Texas Penal Code, fails to secure the dog and the dog makes an unprovoked attack on another person that occurs at a location other than the owner's real property or in or on the owner's motor vehicle or boat and that causes serious bodily injury, as defined by Section [1.07](#), Texas Penal Code, or death to the other person; or
  - b. knows the dog is a dangerous dog by learning in a manner described by Section 11.A.7 that the person is the owner of a dangerous dog, and the dangerous dog makes an unprovoked attack on another person that occurs at a location other than a secure enclosure in which the dog is restrained in accordance with Section 11 and that causes serious bodily injury or death to the other person.
2. An offense under this section is a felony of the third degree unless the attack causes death, in which event the offense is a felony of the second degree.
3. If a person is found guilty of an offense under this section, the court may order the dog destroyed by a person listed in Subsection C.
4. A person who is subject to prosecution under this section and under any other law may be prosecuted under this section, the other law, or both.

E. Defenses.

1. It is a defense to prosecution under Subsection D that the person is a veterinarian, a veterinary clinic employee, a peace officer, a person employed by a recognized animal shelter, or a person employed by this state or a political subdivision of this state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.
2. It is a defense to prosecution under Subsection D that the person is an employee of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes and is training or using the dog in connection with the person's official capacity.
3. It is a defense to prosecution under Subsection D that the person is a dog trainer or an employee of a guard company under Chapter [1702](#), Occupations Code, and has temporary ownership, custody, or control of the dog in connection with that position.
4. It is a defense to prosecution under Subsection D that the person is a person with a disability and uses the dog to provide assistance, the dog is trained to provide assistance to a person with a disability, and the person is using the dog to provide assistance in connection with the person's disability.
5. It is a defense to prosecution under Subsection D that the person attacked by the dog was at the time of the attack engaged in conduct prohibited by Chapters 19, 20, 21, [22](#), 28, 29, and 30, Texas Penal Code.
6. It is an affirmative defense to prosecution under Subsection D that, at the time of the conduct charged, the person and the dog are participating in an organized search and rescue effort at the request of law enforcement.
7. It is an affirmative defense to prosecution under Subsection D that, at the time of the conduct charged, the person and the dog are participating in an organized dog show or event sponsored by a nationally recognized or state-recognized kennel club.
8. It is an affirmative defense to prosecution under Subsection D that, at the time of the conduct charged, the person and the dog are engaged in:
  - a. a lawful hunting activity; or
  - b. a farming or ranching activity, including herding livestock, typically performed by a working dog on a farm or ranch.
9. It is a defense to prosecution under Subsection D that, at the time of the conduct charged, the person's dog was on a leash and the person:
  - a. was in immediate control of the dog; or
  - b. if the person was not in control of the dog, the person was making immediate and reasonable attempts to regain control of the dog.

## SECTION 11. DANGEROUS DOGS

### A. Requirements for Owner of Dangerous Dog.

1. Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:
  - a. register the dangerous dog with the animal control officer for the area in which the dog is kept;
  - b. restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;
  - c. obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control officer for the area in which the dog is kept; and
  - d. comply with all applicable municipal regulation, requirement, or restriction on dangerous dogs.
2. The owner of a dangerous dog who does not comply with Subsection A.1 shall deliver the dog to the animal control officer not later than the 30th day after the owner learns that the dog is a dangerous dog.
3. If, on application of any person, the municipal court finds, after notice and hearing as provided by Subsection D, that the owner of a dangerous dog has failed to comply with Subsection A.1 or A.2, the court shall order the animal control officer to seize the dog and shall issue a warrant authorizing the seizure. The officer shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.
4. The owner shall pay any cost or fee as provided by the Fee Schedule attached hereto as Exhibit "A" for the seizure, acceptance, impoundment, or destruction of the dog.
5. The court shall order the animal control officer to humanely destroy the dog if the owner has not complied with Subsection A.1 before the 11th day after the date on which the dog is seized or delivered to the officer, except that, notwithstanding any other law or local regulation, the court may not order the destruction of a dog during the pendency of an appeal under Subsection E. The court shall order the officer to return the dog to the owner if the owner complies with Subsection A.1 before the 11th day after the date on which the dog is seized or delivered to the officer.
6. The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.
7. For purposes of this section, a person learns that the person is the owner of a dangerous dog when:

- a. the owner knows of an attack described under the definition for dangerous dog;
- b. the owner receives notice the municipal court has found that the dog is a dangerous dog under Subsection D; or
- c. the owner is informed by the animal control officer that the dog is a dangerous dog.

B. Determination that Dog is Dangerous.

1. If a person reports an incident described under the definition for dangerous dog, the animal control officer may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control officer determines the dog is a dangerous dog, the animal control officer shall notify the owner in writing of the determination.
2. An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control officer to the municipal court.
3. To file an appeal under Subsection B.2, the owner must:
  - a. file a notice of appeal of the animal control officer's dangerous dog determination with the court;
  - b. attach a copy of the determination from the animal control officer; and
  - c. serve a copy of the notice of appeal on the animal control officer by mailing the notice through the United States Postal Service.
4. An owner may appeal the decision of the municipal court under Subsection B.2 in the manner described by Subsection E.

C. Reporting of Incident

1. The City Council hereby elects to be governed by Section 822.0422, Subchapter D, of the Texas Health and Safety Code.
2. A person may report an incident described by the definition of dangerous dog herein to the municipal court. The owner of the dog shall deliver the dog to the animal control officer not later than the fifth day after the date on which the owner receives notice that the report has been filed. The officer may provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.
3. If the owner fails to deliver the dog as required by Subsection C.2, the court shall order the animal control officer to seize the dog and shall issue a warrant authorizing the seizure. The officer shall seize the dog or order its seizure and shall provide for the

impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog. The owner shall pay any cost incurred in seizing the dog.

4. The court shall determine, after notice and hearing as provided in Subsection D, whether the dog is a dangerous dog.
5. The court, after determining that the dog is a dangerous dog, may order the animal control officer to continue to impound the dangerous dog in secure and humane conditions until the court orders disposition of the dog under Subsection A and the dog is returned to the owner or destroyed.
6. The owner shall pay a cost or fee assessed under A.4.

#### D. Hearing

1. The court, on receiving a report of an incident under Subsection C or on application under Subsection A.3, shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of the dog has complied with Subsection A. The hearing must be held not later than the 10th day after the date on which the dog is seized or delivered.
2. The court shall give written notice of the time and place of the hearing to:
  - a. the owner of the dog or the person from whom the dog was seized; and
  - b. the person who made the complaint.
3. Any interested party, including the city attorney/prosecutor, is entitled to present evidence at the hearing.
4. The court shall determine the estimated costs to house and care for the impounded dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs.
5. An owner or person filing the action may appeal the decision of the municipal court in the manner described by Subsection E.

#### E. Appeal

1. A party to an appeal under Subsection B or a hearing under Subsection D may appeal the decision to a county court or county court at law in Bexar County and is entitled to a jury trial on request.
2. As a condition of perfecting an appeal, not later than the 10th calendar day after the date the decision is issued, the appellant must file a notice of appeal and, if applicable, an appeal bond in the amount determined by the court from which the appeal is taken.

3. Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection E.1 is not required to file a motion for a new trial to perfect an appeal.
4. A decision of a county court or county court at law under this section may be appealed in the same manner as an appeal for any other case in a county court or county court at law.
5. Notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

F. Registration

1. An animal control officer shall annually register a dangerous dog if the owner:
  - a. presents proof of:
    - i. liability insurance or financial responsibility, as required by Section A;
    - ii. current rabies vaccination of the dangerous dog; and
    - iii. the secure enclosure in which the dangerous dog will be kept; and
  - b. pays an annual registration fee established by the Fee Schedule attached hereto as Exhibit "A".
2. The animal control officer shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog's collar.
3. If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control officer. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee of \$25, the animal control officer shall issue a new registration tag to be placed on the dangerous dog's collar.
4. An owner of a registered dangerous dog shall notify the office in which the dangerous dog was registered of any attacks the dangerous dog makes on people.

G. Attack by Dangerous Dog

1. A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
2. An offense under this section is a Class C misdemeanor.
3. If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person listed in Section 10.C.

#### H. Violations

1. A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with Section A or Section C.2 or an applicable City regulation relating to dangerous dogs.
2. Except as provided by Subsection 3, an offense under this section is a Class C misdemeanor.
3. An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has previously been convicted under this section.

#### I. Defense

1. It is a defense to prosecution under Section G or Section H that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.
2. It is a defense to prosecution under Section G or Section H that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.
3. It is a defense to prosecution under Section G or Section H that the person is a dog trainer or an employee of a guard company under Chapter 1702, Occupations Code.

### **SECTION 12. ANIMAL QUARANTINE.**

- A. Any animal that has rabies or symptoms which could reasonably indicate rabies or that bites, scratches or otherwise creates a condition which may expose or transmit the rabies virus to a human being shall be impounded immediately. Upon notification, the owner shall surrender the animal to the animal control officer for quarantine at the City's designated quarantine facility, or with approval from the animal control officer deliver the animal to a state-approved veterinarian quarantine facility for quarantine at the owner's expense. Quarantine shall be for a minimum of ten (10) days beginning on the date the incident occurred or longer as the animal control officer may deem necessary. Animal quarantine shall be in accordance with any applicable rules and regulations adopted by the Texas Department of Health.
- B. Quarantine shall be subject to the following conditions:
  1. The quarantine animal showing clinical signs of rabies shall be immediately destroyed and the head submitted to the nearest Texas Department of Health laboratory for testing.
  2. The animal placed in quarantine shall not be released without prior notification to and written approval from the animal control officer.

3. Home quarantine at the residence of the owner, if approved by the animal control officer, must satisfy the following conditions:
  - a. Secure facilities are available and approved by the animal control officer.
  - b. The animal is currently vaccinated against rabies.
  - c. The local control authority must observe the animal on the first and last days of the quarantine period.
  - d. The owner of the animal shall notify the animal control officer if the animal escapes, becomes or appears to become sick, or dies; and, in case of death of the animal while under quarantine, shall immediately surrender the dead animal to the animal control officer for diagnostic purposes. The carcass of a dead animal exposed to rabies or suspected of having rabies or suspected of having been rabid, shall upon demand, be surrendered to the local rabies control officer.
  - e. The animal is being isolated from all other animals, and human beings other than the individual(s) who own the animal.
- C. The owner shall submit for quarantine an animal that:
  1. Is reported rabid or has exposed an individual to rabies; or
  2. The owner knows or suspects is rabid or has exposed an individual to rabies; or
  3. Has bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being.
- D. When submitted for quarantine, the owner shall provide the name, address, and any other relevant information about the animal to the animal control officer.
- E. The owner of a quarantined animal shall pay all reasonable costs of the quarantine and disposition of the animal, including charges for shipment of animal tissues, if required, to the Texas Department of Health laboratory for testing.
- F. An animal that has been quarantined may be released, after the local rabies control officer determines that the quarantined animal does not show clinical signs of rabies and under the following conditions:
  1. At the end of the observation period upon proof of vaccination prior to release from quarantine.
  2. When all applicable fees have been paid.
  3. If the animal is not being held up for legal proceedings.
  4. If appropriate city registration has been completed.



- G. It shall be unlawful for any person to interrupt the observation period or otherwise interfere with quarantine.
- H. It shall be unlawful for any person to destroy or remove from the city any animal that has bitten a person or other animal or that has been placed under quarantine, except when necessary to protect the life of any person or other animal or otherwise approved by the local rabies control authority.
- I. Dangerous wild animals shall not be placed in quarantine. Dangerous wild animals shall be humanely destroyed in such a manner the brain is not mutilated. The brain will then be submitted to a Texas Department of Health laboratory for testing.
- J. No person shall fail or refuse to surrender an animal for quarantine or for destruction and testing when ordered by the local rabies control authority under the conditions outlined in this section.

### **SECTION 13. DOMESTIC ANIMAL EXPOSED TO RABIES.**

- A. This section applies only for domestic animal that can be legally vaccinated for rabies and have been exposed, by physical contact, with a rabid animal, or suspected rabid animal.
- B. The owner of such animal shall notify the local rabies control authority within twenty-four (24) hours of an incident, who shall investigate and if investigation warrants, follow the requirements set forth herein.
- C. If the exposed animal was currently vaccinated (more than thirty (30) days prior to bite and within the past thirty-six (36) months) against rabies at the time of exposure, it must be:
  - 1. Vaccinated against rabies immediately and placed in strict isolation for forty-five (45) days. Strict isolation shall be defined as a secure, locked enclosure that would prevent the animal from escape, prevent access to the animal by the public, and care of animal restricted to one individual; or
  - 2. Humanely destroyed.
- D. If the exposed animal was not vaccinated against rabies at the time of the exposure it must be:
  - 1. Vaccinated against rabies:
    - a. Immediately after exposure; and
    - b. Given a second vaccination three (3) weeks after exposure; and
    - c. Given a third vaccination eight (8) weeks after exposure; and
    - d. Placed in strict isolation for ninety (90) days from date of exposure. Strict isolation shall be defined as a secure, locked enclosure that would prevent the animal from

escape, prevent access to the animal by the public, and care of animal restricted to one individual; or

2. Humanely destroyed.
- E. The owner or harbinger of such animal shall be responsible for all cost associated with this section.
- F. Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in an animal shall immediately notify the local rabies control authority or designated agent for investigation.

#### **SECTION 14. AUTHORITY TO KILL, IMPOUND OR DESTROY ANIMALS.**

- A. The animal control officer shall have the authority to do the following:
  1. Kill an animal which poses an imminent danger to a person or property and a real or apparent necessity exists for the destruction of the animal.
  2. Impound an animal which is diseased and endangers the health and welfare of another animal or person.
  3. Destroy an impounded animal if the animal control officer determines that recovery of the animal is doubtful due to injury or disease.
  4. Carry a loaded tranquilizer gun on his/her person or in his/her governmental vehicle when acting in the course and scope of his or her employment the animal control officer approved by the Chief of Police or person overseeing animal control for the City and not in violation of any provision of the Texas Penal Code or any other applicable federal state or local law as currently written or as may be amended.
  5. Ingress and egress on private property for the purpose of apprehending animals at large.
- B. Impoundment fees for dogs or cats.
  1. The owner of an impounded animal shall pay a fee to redeem such animal from the City or Enforcing Agency designated by the City. The fee is designated within a fee schedule as established by the City or by a governmental agency providing such services to the City pursuant to an interlocal agreement.
  2. Any person claiming a dog or cat that has not been vaccinated or fails to have proof of vaccination within the last year may be cited for failing to vaccinate under Section 5 of this Ordinance.
  3. If an owner does not redeem an animal within the time period set forth in Section 8, the animal shall be subject to adoption or other disposition. Any animal that is subject to adoption shall meet all the requirements set forth in Section 8 including payment of fees vaccination and alteration by spaying or neutering as required by subsection C.

C. Vaccination and Spay/Neuter Requirement.

1. An owner whose dog or cat has been impounded and who wishes to redeem the dog or cat must have the dog or cat vaccinated for rabies when required within five (5) days after redeeming the dog or cat and have the dog or cat spayed or neutered within fourteen (14) days after redemption or adoption providing the animal is of the proper age for such procedure. The owner must return to City Hall within five (5) days with proof of the rabies vaccination and/or fourteen (14) days with proof that the dog or cat was spayed or neutered.
2. Violation of this subsection may result in the impoundment of the dog or cat as provided in this Ordinance.

D. Failure to release or remove dog.

1. A person commits an offense if he or she knowingly possesses and fails to release a dog to the animal control officer that has been charged with the authority provided by subsection A.
2. A person commits an offense if the person knowingly possesses and fails to remove a dog determined to be dangerous by this Ordinance.

E. Confinement of animals by individuals. If an animal is found upon the premises of another, the occupant of the premises may confine the animal only for so long as reasonably necessary to notify the City and have the animal impounded. In attempting to confine the animal the occupant shall not use any means or force that could constitute cruelty to an animal or behave in a cruel manner as defined by the Texas Penal Code toward the animal.

F. Disposal of dead animals.

1. It shall be the responsibility of the owners of livestock to properly dispose of all dead animals within a twenty-four (24) hour period.
2. It shall be the responsibility of the owner to dispose of dead dogs, cats or other animals other than livestock, on his property within twelve (12) hours.
3. The animal service officer has the authority to pick up any dead animal found on public property and dispose of it and assist a citizen with the same if requested. After twenty-four (24) hours, the animal control officer may enter private property and remove any dead animal which the property owner has failed to dispose of.

G. Fees for removal of dead animals.

1. There shall be a fee for the removal of a deceased animal from private property.
2. The fee shall be determined as designated in the fee ordinance. These fees are to be paid by the person or persons owning the animal or having possession thereof.

## SECTION 15. REPORTING REQUIREMENTS.

### A. Abandonment—Reporting Violations

1. It is unlawful for any person to abandon any animal in the City.
2. Every person having knowledge of a violation shall report immediately to the City of Sandy Oaks Police Department any facts, which could lead to the identification of any person or group of persons violating subsection A of this Section. However, nothing in this provision shall subject an individual with knowledge of the violation to prosecution under this Ordinance.
3. It is unlawful for any person having charge or custody of an animal, as owner or otherwise, to place or confine such animals or allow such animals to be placed or confined or to remain in a motor vehicle or livestock trailer under such condition or for such period of time as may endanger the health or well-being of such animal due to heat, lack of food or water, or such other circumstances as may reasonably be expected to cause suffering, disability or death.
  - a. Any officer finding an animal in another vehicle or livestock trailer in violation of the provisions in this subsection is authorized to obtain a locksmith at the owner's cost or break and enter the vehicle, if necessary, to remove the animals.
  - b. Removed animals will be impounded with the Enforcing Agency or a veterinary clinic for safekeeping. Owners may claim their animals upon payment of all reasonable charges or fees that accrued for removals and maintenance of the animals, plus impoundment fees charged by the Enforcing Agency.
  - c. At the time the animals removed from the motor vehicle or livestock trailer, the officer shall leave a written notice bearing his name and title and the address where the animal may be claimed.
  - d. The animal will be retained for a minimum of three (3) business days or other time designated by the Enforcing Agency, and if not claimed, may be disposed of by the Enforcing Agency in accordance with their rules and regulations.

B. Rabies—Reporting Requirements. It shall be the duty of the owner, custodian, or veterinarian to report to the City all cases of rabies or suspected rabies which the owner, custodian, or veterinarian knows or should know. Any animal that has or is suspected of having rabies that has symptoms of rabies has been exposed to rabies or some other facts suggest that rabies is a concern in regard to the animal shall be quarantined as required by law and direction of the Chief of Police or animal control officer.

### C. Animal bites—Reporting Requirements.

1. A person who knows of an animal bite or scratch to an individual or another animal that the person could reasonably foresee as capable of transmitting rabies, or who knows of an animal that the person suspects is rabid, shall report the incident or animals

to the City of Sandy Oaks Police Department as soon as possible, but not later than twenty-four (24) hours from the time of the incident. The report must include:

- a. The name and address of the victim and the animal's, owner, if known; and
  - b. Any other information that may help in locating the victim or animals.
2. It shall be the duty of every veterinarian having an animal quarantined for a bite incident to submit a written report to the City as to the condition of the quarantined animals on the initial day of observation and on the fifth day and the tenth day immediately following the date of the bite incident.
  3. It shall be the duty of every veterinarian to report immediately to the City his/her diagnosis of any animals observed by him as a rabies suspect.
- D. It shall be the duty of every veterinarian, physician, or other person having knowledge of any zoonotic disease or condition caused by animals which may endanger the public or animal health or create a public nuisance to report same to the City.

#### **SECTION 16. FEES AND IMPOUNDMENT.**

- A. The Enforcing Agency is hereby authorized and required to charge the same fees as are established and charged by the respective Enforcing Agency for any service for which the Enforcing Agency has established a fee. The fees established by the City where the City provides such services or is the Enforcing Agency for purposes of any section of this Ordinance is attached as Exhibit "A" and incorporated herein.
- B. The owner of any animal detained and impounded by the Enforcing Agency shall be entitled to resume possession of such animal upon compliance with the laws and regulations of the Enforcing Agency and the payment of any impoundment, boarding and quarantine fees as established by the Enforcing Agency or has have been established by an Interlocal Agreement between the City and another local governmental agency providing animal care services pursuant to this Ordinance.
- C. Any animal detained or impounded under the provisions of State law or this Ordinance or held by the Enforcing Agency in the jurisdiction of the Enforcing Agency, and not reclaimed in the manner and time period as provided by the laws and regulations of the Enforcing Agency, will become the property of the Enforcing Agency and be subject to its regulations governing animal impoundment, redemption and disposition.

#### **SECTION 17. CRIMINAL PENALTIES AND ENFORCEMENT.**

- A. Right of Entry—Interference with Officer.
  1. Any peace officer, animal control officer or other person authorized by the Enforcing Agency to serve as "officers" as this term is defined by this Ordinance, shall be primarily responsible for the enforcement of this Ordinance.

2. The Code Enforcement Officers or Code Enforcement Officials of the City of Sandy Oaks are additionally responsible for the enforcement of this Ordinance and serve as “officers” as this term is defined by this Ordinance.
3. Officers shall be responsible for the enforcement of all laws and regulations of the State of Texas pertaining to animals that authorize the local health authority or animal control officers to enforce the same.
4. An officer shall have the authority to issue citations for any violation of this ordinance. If the person is not present, the officer may mail the citation to the alleged violator by certified mail, return receipt requested.
5. The officer is authorized to:
  - a. Impound any animal in violation of this ordinance;
  - b. Issue citations for any violation of this ordinance or applicable state law;
  - c. Obtain search and seizure warrants for animals from the court of competent jurisdiction; and
  - d. Exercise all powers given to animal control officers in the State of Texas.
6. For the purpose of discharging the duties imposed by this ordinance and to enforce its provision, any officer is empowered at all reasonable times and upon representation of appropriate credentials, to enter any premises upon which an animal is kept or harbored and to demand the exhibition, by the owner of a dog or cat, of the certificate of vaccination for such dog or cat. It is further provided that any officer may enter, at all reasonable times and upon the presentation of appropriate credentials, the premises where an animal is kept in an allegedly cruel or inhumane manner and demand to examine or impound such animal, when in his/her opinion it requires humane treatment. No officer shall, however, enter a private residence for purposes of making an inspection under this Section without first receiving permission from an occupant of such residence or being authorized to inspect such residence by a magistrate or by order of a court of competent jurisdiction as provided by law.
7. The officer shall have the right of entry onto any unenclosed lots or lands for the purpose of enforcing the provision of this ordinance; provided, however, the officer shall not have the right of entry to enclosed dwellings or fenced enclosures used for residential purposes, except when pursuing an at large animal that has entered said enclosure while fleeing the officer or for the purpose of examining or obtaining any animal suspected of having rabies, having been exposed to rabies or having bitten a person or another animal and/or any suspicion of cruelty or neglect from the owner.
8. No person shall interfere with, hinder or molest any officer in the performance of his duty or in the exercise of the powers authorized by this ordinance, any such acts shall constitute a violation of this ordinance.

9. Nothing in this Section shall be construed to limit an officer's ability to enter upon a premises when a violation of this Ordinance or other law occurs in their presence and entry is made in accordance with the state and federal law.
- B. Violation—Penalty. Except as otherwise provided by State law, any person violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed TWO THOUSAND DOLLARS AND NO/100 (\$2,000.00). Each occurrence shall be deemed to be a separate violation. Each day that a violation is permitted to exist shall constitute a separate offense.
- C. Enforcement of Violations.
1. The Chief of Police, code enforcement officer, code enforcement official, or animal control officer shall have the authority to issue citations for any violation of this Ordinance.
  2. It shall be unlawful for any person upon being issued a citation to give the animal control officer any personal identification information other than his true name and address.
  3. It shall be unlawful to fail to appear in accordance with the terms of a citation issued by the animal control officer.
  4. If the person being cited is not present, the animal control officer may send the citation to the alleged offender by certified or registered mail return receipt requested whereupon service shall be deemed complete.
  5. It shall be unlawful for any person to interfere with the animal control officer in the performance of his duties.

**SECTION 18. EFFECT OF ORDINANCE ON EXISTING DEED RESTRICTIONS, COVENANTS OR AGREEMENTS.** This Ordinance does not supersede a deed restriction, covenant or agreement that is contrary to a provision in this Ordinance relating to the keeping, caretaking or maintaining of animals on residential properties within the City and that exists prior to the time this Ordinance takes effect. It is an affirmative defense to prosecution under this Ordinance if the keeping, caretaking or maintaining of animals on residential property is permitted under a deed restriction, covenant or agreement that exists prior to the time this Ordinance takes effect and a showing of proof of such existence. A person may submit a variance request to be considered by the City Council.

**SECTION 19. REPEAL OF CONFLICTING ORDINANCES.** All City ordinances or parts of ordinances inconsistent or in conflict herewith, to the extent of such inconsistency or conflict, are hereby repealed.

**SECTION 20. SEVERABILITY.** It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance

since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase clause sentence paragraph or section.

**SECTION 21. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its publication as required by section 52.011 of the Local Government Code.

**SECTION 22. PUBLICATION.** The City Clerk is hereby authorized and directed to publish the caption of this Ordinance together with the penalty provision contained therein the manner and for the length of time prescribed by law.

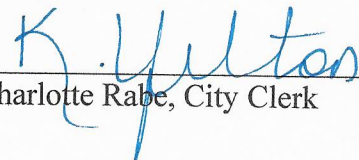
**PASSED, APPROVED AND ADOPTED THIS 10<sup>th</sup> day of February 2022.**

**CITY OF SANDY OAKS, TEXAS**

\_\_\_\_\_  
Micki L. Ball, Mayor



**ATTEST:**

  
\_\_\_\_\_  
Charlotte Rabe, City Clerk



## Exhibit "A"

### Fee Schedule

<u>Description</u>	<u>Schedule</u>
Adoption of Animal	\$50
Return/Redemption of Captured Animal (spayed/neutered) (1 <sup>st</sup> offense)	\$50
Return/Redemption of Captured Animal (not spayed/neutered (unless excepted)) (1 <sup>st</sup> offense)	\$50 (and upon signing agreement to spay/neuter)
Return/Redemption of Captured Animal (spayed/neutered) (2 <sup>nd</sup> offense)	\$100
Return/Redemption of captured animal (not spayed/neutered within 30 days of initial return/redemption from 1 <sup>st</sup> offense)	\$100
Return/Redemption of Captured Animal (not spayed/neutered) (2 <sup>nd</sup> offense) (if captured more than 30 days after 1 <sup>st</sup> offense)	---
Return/Redemption of Captured Animal (3 <sup>rd</sup> offense or <)	---
Microchipping (includes registration)	\$10 (residents) \$25 (non-resident)
Seizure	---
Impoundment/Boarding	\$10/day
Quarantine	---
Destruction	\$200
Registration of Dangerous Dog	\$400/year